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EPA offers Rico pollution settlement

By Ben Murray

In an attempt to bring to a close a four-year court battle over contaminated discharges spilling from the Rico Argentine mining site, the U.S. Environmental Protection Agency and the State of Colorado offered a settlement to the estates of two former shareholders in the Rico Development Corp., who owned the mine for a number of years in the late 1980s and early 1990s.

The state and the EPA brought the case against the former shareholders in 1999 for violating permits requiring the owners to treat contaminated water running from the St. Louis Tunnel. According to a statement from the EPA, the former owners repeatedly failed to treat polluted water running from the site, located just north of the Town of Rico and directly adjacent to the Dolores River.

The terms of the proposed settlement, filed in U.S. District Court last week, order the estates of former shareholders Wayne Webster and Virginia Sell to pay \$180,000 and \$110,000, respectively, to the Rico-Argentine Special Account within the EPA's Hazardous Substance Superfund, the statement reads.

The Rico Development Co. was incorporated in the late 80s to develop the mining site, but the sale from former owner Atlantic Richfield Co. (ARCO) required RDC to take on the responsibility of treating the water coming from the mine, said Sheldon Muller, a regional EPA enforcement attorney.

The now-defunct mine was used by previous companies digging for precious metals, but in its disuse has flooded, and contaminated water now runs nearly continuously from the St. Louis Tunnel, Muller said.

Though RDC was not using the mine, it was still required to monitor and treat the water flowing from the tunnel.

According to the permit governing the treatment of the water, RDC was required to take samples from the outflow and have those samples periodically tested, Muller said.

The results of those tests were made available to the EPA, and showed RDC to be "violating their permit on a regular basis," he said.

RDC was supposed to be treating the water for a number of contaminants.

"There's a list including zinc, copper, lead, cadmium, silver. I think there's probably a couple

others," Muller said.

Studies have shown that those metals and others, including mercury, along with the pH level of the water, may be having effects on the ecology of the river and habitats downstream, said Carol Russell, regional mining team leader for the EPA.

Some research indicates that pollutants flowing from the St. Louis Tunnel and other outflows from old mines in the Rico area have contributed to the contamination of fish stocks further down the Dolores as far as McPhee Reservoir and beyond, where state advisories against eating the fish have been ordered in the past, Russell said.

Discharge from the tunnel, which is located within a mile of Rico on the north side of town, does not flow directly into the river, but instead spills out from a series of holding ponds that were part of an old treatment plant that once operated there. The discharge then makes its way from the holding ponds into the river, Rico town officials said.

Russell said that there is no health risk to Rico residents or contamination of their water supply, but the effects of the discharge on plants and animals living on or near the river are hard to gauge.

The old water treatment facility below the St. Louis Tunnel was constructed and used by former owners of the site, but RDC stopped using it and allowed it to eventually be dismantled, prompting the lawsuit, the EPA statement reads.

Though the mine changed hands again in the mid 1990s, the state and EPA went after the RDC shareholders for the violations, ending in last week's settlements. The fines will be used as funding for cleanup related to the site.

Future plans to address the problem of the contaminated water flowing from the mine include a proposed initiative by ARCO, in connection with the Town of Rico and the mine's current owners, to construct a new treatment plant on the site, according to the statement.

As a former owner of the site that actively mined the area and contributed in the digging of the tunnel, ARCO can be considered responsible for the cleanup of the water, Muller said.

The EPA has the power to seek legal injunctions that would order ARCO and other former owners to address the polluted outflow, but ARCO has decided to come forward with solutions to the problem before the federal agency made any move to do so, he said.

The former mine owner is taking the initiative to back the creation of a nonprofit that would oversee construction and operation of the proposed new plant, Muller said.